REMARKS

Reconsideration of this application is requested. Claims 1, 2, 4-6 and 8-11 and 27 are in the case. Subject matter cancelled in this amendment has been deleted without prejudice to the possibility of pursuing that subject matter in a separate continuing application.

I. THE INTERVIEW

At the outset, the undersigned wishes to thank the Examiner (Mr. Hendricks) for kindly agreeing to conduct an interview in this application. The interview was held on March 26, 2003 and the courtesies extended by the Examiner during the interview were most appreciated. The substance of the interview will be clear from the comments presented below.

II. THE 35 U.S.C. § 112, SECOND PARAGRAPH, REJECTION

Claim 2 stands rejected under35 U.S.C. § 112, second paragraph, as allegedly indefinite in referring to the "non gelating soluble elementary fibre...". In response, claim 2 has been amended to refer to the composition.

III. THE ANTICIPATION REJECTIONS

Claims 1-3 and 8-11 stand rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Yatka et al. Claims 1-3 and 8-10 stand rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Motte. Those rejections are respectfully traversed.

Without conceding to the merit of the rejections, and in order to advance prosecution, claim 1 has been amended to specify that the non gelating elementary fibre is inulin. Claim 3 has accordingly been canceled without prejudice. Claim 1 as amended is believed to be novel (and non-obvious) over the art cited by the Examiner.

Yatka describes chewing gum products containing oligofructose. The Examiner has drawn attention to the reference at column 4, lines 20-35 of Yatka to Raftilose 95 which is allegedly available in powder form. However, as noted at page 4, line 2 of the outstanding official Action, Raftilose is hydrolyzed inulin which is not the same as inulin. In this regard, attention is directed the Coussement reference wherein it is stated that Raftilose contains oligofructose comprising a mixture of oligosaccharides produced by hydrolysis of inulin molecules. Thus, inulin is a polysaccharide (see the attached excerpt from the Merck Index), whereas Rafitlose is a mixture of oligosaccharides (i.e., short of molecules). The degree of polymerization of Raftilose is between 2 and 7, which is quite distinct from that of inulin (which is about 35, as indicated in the Merck Index). Moreover, the fact that Raftilose is available from the supplier in powdered form does not mean that the chewing gums disclosed by Yatka are in powdered form. In fact, chewing gums are traditionally manufactured by mixing the ingredients in molten state and then extruding the final product. This is confirmed by Yatka's Example 8, wherein the various ingredients are blended at 50°C (i.e., at a temperature higher than the melting temperature of the gum used for manufacturing chewing gums). Thus, in addition to the compositions disclosed by Yatka not containing inulin, they also are not in powder form.

For all of the above reasons, it is clear that Yatka does not anticipate claim 1 as now amended to recite inulin. Reconsideration and withdrawal of the outstanding anticipation rejection based on Yatka are accordingly respectfully requested.

Motte likewise fails to anticipate the invention as now claimed. Motte discloses a formulation containing a generic vegetable material having an elementary fibre content of at least 50%, together with an artificial sweetener. Motte does not mention that the fibre may be inulin. Moreover, Motte does not disclose (or even remotely suggest) that by combining inulin and an artificial sweetener that it is possible to obtain an edulcorating composition which is soluble in warm and cold drinks without generating undesired gelation and/or insolubility phenomena (see page 2 of the present application).

In addition, as will be appreciated from the Merck Index, inulin is soluble in hot water but only slightly soluble in cold water. Furthermore, inulin has a significantly lower density (597.8 g/l), as compared to customary sweeteners, for example saccharose (863.4 g/l). Clearly, therefore, as of the priority date of the present application, one of ordinary skill would have been concerned that the inulin base compositions could only dissolve in hot (not warm) drinks. Many drinks are normally served at room temperature, and one of ordinary skill would not have been motivated to incorporate components into a composition which would require additional heating to dissolve the edulcorating composition. In addition, because of the low density of inulin, one of ordinary skill would have been concerned that inulin-based compositions would not be able to penetrate the film/foam normally formed on the surface of customary drinks, for example, coffee, cappuccino, chocolate or juice.

For all of the above reasons, Motte clearly does not anticipate the presently claimed invention, since there is no disclosure in Motte of an inulin-based composition, and there is no disclosure (or suggestion) that inulin-based compositions may effectively solve the technical problem underlying the present invention.

Withdrawal of the outstanding anticipation rejection based on Motte is believed to be in order. Such action is respectfully requested.

IV. THE OBVIOUSNESS REJECTION

Claims 14-19 and 23-26 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Coussement in view of Motte and Yatka. In order to reduce the issues in this case, and without conceding to the merit of the obviousness rejection, the method claims have been canceled without prejudice to the possibility of pursing that subject matter in a separate continuing application. Withdrawal of the outstanding obviousness rejection is respectfully requested.

V. CLAIM AMENDMENTS

As noted earlier, claim 1 has been amended to recite inulin and claim 3 has been canceled without prejudice. In addition, claim 1 has been amended to remove reference to the apparent density which is not believed to be required to achieve novelty and unobviousness of the presently claimed invention. The apparent density ranges are the subject of dependent claims 2 and 27. Entry and favorable consideration of the claims as amended and new claim 27 are respectfully requested.

Allowance of the application is awaited.

Respectfully submitted,

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Attachment: Excerpt from Merck Index regarding inulin